(3)

11.152

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHATTISGARH)

Single Bench

CIVIL REVISION NO. 57 /2006

PETITIONER/DEFENDANT Jagdish Prasad Sharma
S/o Dhansalsl Sharma
Aged about 55 years
R/o Bharkapara,
Dist. Rajnandgaon, (C.G.)

VERSUS

RESPONDENT/PLAINTIFF 1. Gomtibai,
W/o Banwari Lal Sharma
Aged about 35 years,
R/o Mahukhurd, P.O. Mahukala,
Gangpur City, (Rajasthan)
Through the Power of Attorney
holder Banwari Lal Sharma, S/o
Kanhaiya Lal Sharma, R/o
Mahukhurd, P.O. Mahukala Dist.
Sawai Madhopur, Gangpur City
(Rajasthan)

Presented by Shri ... 11/06/06 ... 25/9/06

DEFENDANT No. 2&3 2. Baisakhin Bai Sahu, W/o
Dashruram Sahu, Aged about 98
years, R/o Hiramoti Line,
Rajnandgaon, Tah. & Dist.
Rajnandgaon (C.G.)

3. Naresh Baid, Aged about 39 years
S/o Bhawar Lal Baid,
R/o Sadarbazar, Rajnandgaon,
Tah. & Dist. Rajnandgaon (C.G.)

REVISION PETITION UNDER SECTION 115 OF CODE OF CIVIL PROCEDURE 1908

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(21)

C.R. No. 57/06

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

27.04.2006

Shri Anand Shukla, Learned counsel for the applicant.

Heard.

The applicant has preferred this instant Civil Revision against the order dated 06.03.2006 passed by Learned District Judge, Rajnandgaon in M.J.C. No. 19/2004 and by which allowing the application of the non-applicant No. 1 under order 9 rule 9 of the CPC, the original civil suit No. 7A/2002 has been restored to its original number and the order of dismissal and default dated 09.03.2004 (Annexure P-1) has been set aside.

Learned council for the applicant submits that the matter was fixed for recording of evidence of plaintiff on 9.03.04 however, on that date neither the plaintiff nor his witness were present before the Court and the counsel for the plaintiff also did not appear when the case was called and therefore, this suit was dismissed for want of prosecution.

Subsequently, on 18.06.2004, the application for restoration of the suit was filed by the plaintiff stating therein that the plaintiff was the resident of Gangapur city, Rajasthan and therefore it was not possible for her to attend each dates in the case and her counsel had assured her that whenever her presence will be required, he will be intimating her. However, she did not receive any intimation that her presence is required on 09.03.2004 and therefore she could not personally appear on that date.

XI-HC-78

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक C.R.No.57/06 सन् 200

-2-

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	Her original counsel Shri G.L.Chandel was sick since January 2004 and therefore he could not communicate the plaintiff regarding the date fixed. The defendant disputed the reasons assigned by the plaintiff for non-appearance and submitted that no sufficient cause has been made out by the plaintiff for her non-appearance on that date i.e. 09.03.2004 and therefore the application for restoration should have been rejected. Learned District Judge examined the witnesses on behalf of the applicant and non-applicant after framing the issues and thereafter relying upon the statement of the husband, A.W.-1 and relative of the applicant Damodar Prasad Sharma and further considering the application for adjournment moved on behalf of the plaintiff on 21.01.2004 wherein it was mentioned that the original counsel Shri G.L.Chandel is suffering from serious illness and for that reason he is not attending the Court and therefore the dates could not be communicated to the applicant and the application for restoration submitted by the applicant was allowed. I have heard learned counsel for the applicant. Taking into consideration the reasons assigned by the trial Court for restoring the suit and allowing the application under Order 9 Rule 9 of the CPC, I am of the opinion that there is no illegality or material irregularity in the impugned order which requires interference in the exercise of revisional jurisdiction. Accordingly the application is rejected at the motion stage itself. **Sd/-** **Dhirendra Mishra** **Judge**	